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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,131	08/29/2003	Kent D. Rager	CS23243RL/10-189	3573
51874	7590	10/04/2005	EXAMINER	
LAW OFFICES OF CHARLES W. BETHARDS, LLP P.O. BOX 1622 COLLEYVILLE, TX 76034			FRECH, KARL D	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

Office Action Summary

Application No.

10/652,131

Applicant(s)

RAGER ET AL.

Examiner

Karl D. Frech

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-25 is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Applicant's response filed 7/19/2005 has been entered.
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tani et al 5,606,160. Tani discloses an apparatus in which a processor controls a memory 12 that has a first and second area (col 6 lines 35+). It is disclosed in column 9 that serial data is converted to parallel data and this parallel data is then stored. It is inherent that a second type of data (i.e. parallel) requires a second writing mode. It is disclosed in column 9 lines 45+ that a proper flag is set (i.e. stored) depending upon a proper or improper read of the data in memory. Official Notice is taken that it is old and well known that memory can be written to at different speeds. It would have been obvious to a person of ordinary skill in the art at the time of the invention to write information to the second memory area either faster or slower as claimed in 3 and 4. As no specific encryption method is claimed or disclosed, it is also inherent that all data is necessarily encrypted as simple binary representation of data is in a sense encrypted information. The evidence of the claims choosing either faster or slower, and the lack of criticality specified as to the specific speed is indication of engineering design choice. The specific data of claim 10 does not further define the method or apparatus of storing the data and therefore is not given patentable weight. Tani discloses in column 2 lines 6-8 that there is means for storing threshold data, wherein the threshold data is an

image data of a predetermined reference symbol detected by said detecting means, i.e. storing imaged data is "provisioning" in it's broadest sense. Tani does not disclose the main memory 12 is a non-volatile memory. However, Tani does disclose that non-volatile memory is known, see non-volatile memory 13 for example. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use a non-volatile memory as the main memory 12 in Tani thereby helping to ensure that stored information is not accidentally erased.

4. Claims 11-25 are allowable over the prior art of record for the same reasons as previously set forth. It is noted that the examiner agrees with applicant's argument that independent claim 18 contains the same allowable subject matter as claim 11.

5. Applicant's arguments filed 7/19/05 have been fully considered but they are not persuasive. Applicant argues that the scanner of Tani is not analogous art with the provisioning scanner as claimed. The examiner respectfully disagrees. Applicant does not give any detail to the specific method of provisioning, therefore the examiner must interpret provisioning in its broadest sense. The examiner interprets provisioning as adding data to a memory. As seen in column 2 lines 6-8, for example, Tani does add data into a memory.

6. The examiner acknowledges that claims 8-10 were not specifically rejected in the previous office action, therefore this rejection is NOT MADE FINAL. Any inconvenience is regretted.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl D. Frech whose telephone number is (571) 272-2390. The examiner can normally be reached on maxi-flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Karl D Frech
Primary Examiner
Art Unit 2876
